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Legal Dept

G. **BRANCH**

Subject:—

Opinion on the cases under the Agricultural Machinary (Control of Prices) Order, 1948

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The question for consideration is whether M/s.Marathe & Co. should be prosecuted for breach of clause 5 of the Agricultural Machinery (Control of Prices) Order, 1947 for omitting to specify the landed cost of the engine in the cash memos issued by the said firms between 8th December 1947 and 9th January 1948.

The opinion expressed by the Police Prosecutor at page 53 does not appear to be correct. Under the Agricultural Machinery (Control of Prices) Order, the landed cost of an article is the landed cost as defined in clause 2(4) of the said Order and there is no obligation on the Director of Civil Supplies to fix it in every case. Clause 4 provides that in any prosecution for a contravention of the provisions of this order the landed cost of an article shall be such as is certified to be the landed cost of that article by the Director of Civil Supplies, Bombay and this clause can be resorted to only when the landed cost on the basis of which the price is claimed is disputed (see clause 3). When M/s. Marathe issued the cash memos there was no dispute about the landed cost and they should have mentioned it in the cash memos after calculating it on the basis laid down in clause 2(4). The correspondence between M/s. Marathe and Government regarding the correct landed cost started after 7th January 1948 and M/s. Marathe's contention that they could not mention the landed cost as it was not fixed by Government is not acceptable. Prosecution is therefore feasible in this case.

P.M.L./7.6.

Remembrancer of Legal Affairs.

U.O.R. to C.S.D. No.5389, dated 8th June 1948.

S.I./12.7.56. 4c.